

Copy
FILED
MAR 03 2003

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

DAVID W. DANIEL, CLERK
US DISTRICT COURT, N.C.
BY 17 D.N.C.
DEP. CLERK

FELIPE DE JESUS DE LUNA-GUERRERO and)
BALDOMERO GUTIERREZ DE LUNA, on)
behalf of themselves and all other similarly)
situated persons,)
Plaintiff,)
v.)
THE NORTH CAROLINA GROWER'S)
ASSOCIATION, INC., and MARCUS)
THIGPEN, on behalf of himself and all)
other similarly situated members of the)
North Carolina Growers Association, Inc.,)
Defendants.)

)

Civil Action No.:
4:02-CV-173-H(4)

AFFIDAVIT OF STAN EURY
IN SUPPORT OF NAMED DEFENDANTS' RESPONSE
TO PLAINTIFF'S MOTIONS FOR BILATERAL CERTIFICATION

The affiant, having been duly sworn, affirms and states as follows:

1. My name is Stan Eury. I am Executive Director of Defendant The North Carolina Growers Association, Inc. ("NCGA"). I have personal knowledge of the facts stated herein.

2. NCGA is a non-profit corporation that provides various services to its membership of approximately 982 owners or operators of agricultural establishments ("Members"), of which Defendant Marcus Thigpen is one. Among the services NCGA provides is assistance in securing foreign agricultural labor through the federal H-2A temporary agricultural program. The H-2A program establishes a means for U.S. employers to employ foreign workers to perform agricultural labor in the United States.

3. At any one time during a given season, there are approximately 9,500 H-2A workers working for NCGA members. When allowances are made for employee turnover, I estimate that NCGA and its member Employers employed a total of approximately 10,000 H-2A workers each season, or approximately 14,000 during the three years before the filing of this action. (Many of our H-2A workers return in subsequent seasons.)

4. As stated above, NCGA's membership consists of approximately 982 owners or operators of agricultural establishments.

5. I am aware that the first named plaintiff, Felipe De Jesus De Luna-Guerrero ("the First Named Plaintiff"), was an H-2A worker assigned to Defendant Marcus Thigpen each season from 1996 through 2000. In the 2001 season, he was initially assigned to Defendant Marcus Thigpen but then transferred mid-season to another NCGA grower, Mr. Shatley. The First Named Plaintiff abandoned his job on July 31, 2001. To the best of my knowledge, the First Named Plaintiff never worked for any NCGA grower other than Defendant Thigpen or Mr. Shatley. Leaving before the end of the season is in breach of his contract and in violation of the guidelines of the H-2A program and applicable immigration laws and regulations. Upon information and belief, he is living illegally in the United States. To the best of my knowledge, the First Named Plaintiff never worked for NCGA or any member grower during the 2002 season.

6. I am aware that the second named plaintiff, Baldomero Gutierrez De Luna ("the Second Named Plaintiff"), was an H-2A worker assigned to Defendant Marcus Thigpen

during the 2001 season only. It is my understanding that the Second Named Plaintiff left on August 31, 2001, before the conclusion of the 2001 season, in breach of his contract and in violation of the guidelines of the H-2A program and applicable immigration laws and regulations. (The Second Named Plaintiff, unlike the First Named Plaintiff, did provide a written notice of voluntary resignation.) Upon information and belief, he is living illegally in the United States. To the best of my knowledge, the Second Named Plaintiff never worked for NCGA or any member grower during the 2002 season.

This the 25th day of February, 2003.



A handwritten signature in black ink, appearing to read "Stan Eury". The signature is fluid and cursive, with a long horizontal line extending from the end of the "y" towards the right.

SWORN TO AND SUBSCRIBED BY ME:

This the 25th day of February, 2003

B. Coe

Notary Public

My Commission Expires: 8/5/06